

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

UNITED STATES OF AMERICA,	)	
	)	Case No.
Plaintiff,	)	
	)	
v.	)	
	)	
ROBERT POSEY and REBECCA POSEY,	)	
	)	
Defendants.	)	
_____	)	

**COMPLAINT**

1. Plaintiff, the United States of America, brings this civil action to reduce to judgment unpaid federal income tax liabilities owed by Defendants Robert Posey (“Mr. Posey”) and Rebecca Posey (“Mrs. Posey”) for tax periods between 2005 and 2016.

2. This action is authorized and requested by the Chief Counsel of the IRS, a delegate of the Secretary of the Treasury of the United States, and is commenced at the direction of the Attorney General of the United States.

3. This Court has jurisdiction over this action under 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. § 7402(a).

4. Defendants, who are husband and wife, reside in Brevard County, Florida, which is within the jurisdiction of this Court.

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and 1396 because the tax liabilities accrued and continue to accrue in this district and Defendants resides in this district.

## COUNT I: FEDERAL INCOME TAXES (BOTH DEFENDANTS)

6. Defendants filed joint federal income tax returns for tax years 2005–2008 and 2014–2016 but did not pay in full the taxes they reported. For each of those years, a delegate of the Secretary of the Treasury, in accordance with the Internal Revenue laws, assessed taxes, as well as applicable penalties and interest, on the dates and in the amounts shown below:

TAX YEAR	ASSESSMENT DATE	AMOUNT	TYPE OF ASSESSMENT	BALANCE DUE*
2005	2/8/2010	\$16,805	RETURN FILED AND TAX ASSESSED	\$43,310.41
		\$674	FAILURE TO PRE-PAY PENALTY	
		\$3,781.12	LATE FILING PENALTY	
		\$3,865.15	LATE PAYMENT PENALTY	
		\$5,446.11	INTEREST	
	8/30/2010	\$336.10	LATE PAYMENT PENALTY	
	8/26/2013	\$3,942.60	INTEREST	
	8/25/2014	\$1,058.35	INTEREST	
	8/31/2015	\$1,111.78	INTEREST	
	11/12/2018	\$5,070.20	INTEREST	
2006	2/8/2010	\$9,650	RETURN FILED AND TAX ASSESSED	\$23,355.40
		\$457	FAILURE TO PRE-PAY PENALTY	
		\$2,171.25	LATE FILING PENALTY	
		\$1,640.50	LATE PAYMENT PENALTY	
		\$2,001.77	INTEREST	
	8/30/2010	\$579	LATE PAYMENT PENALTY	
	8/27/2012	\$193	LATE PAYMENT PENALTY	
	8/26/2013	\$2,100.63	INTEREST	
	8/25/2014	\$570.71	INTEREST	
	8/31/2015	\$599.54	INTEREST	
	11/12/2018	\$2,734.11	INTEREST	
2007	2/8/2010	\$15,068	RETURN FILED AND TAX ASSESSED	\$33,499.36
		\$488	FAILURE TO PRE-PAY PENALTY	
		\$3,390.30	LATE FILING PENALTY	
		\$1,431.46	LATE PAYMENT PENALTY	
		\$1,330.68	INTEREST	
	8/30/2010	\$904.08	LATE PAYMENT PENALTY	
	8/27/2012	\$1,431.46	LATE PAYMENT PENALTY	
	8/26/2013	\$2,911.56	INTEREST	
	8/25/2014	\$818.61	INTEREST	
	8/31/2015	\$859.93	INTEREST	
	11/12/2018	\$3,921.64	INTEREST	
2008	11/23/2009	\$13,733	RETURN FILED AND TAX ASSESSED	

		\$297.29	FAILURE TO PRE-PAY PENALTY	<b>\$20,175.94</b>
		\$501.32	LATE PAYMENT PENALTY	
		\$308.64	INTEREST	
	8/30/2010	\$1,065.30	LATE PAYMENT PENALTY	
	8/27/2012	\$1,566.62	LATE PAYMENT PENALTY	
	8/26/2013	\$2,031.28	INTEREST	
	8/25/2014	\$555.85	INTEREST	
	8/31/2015	\$583.91	INTEREST	
	11/12/2018	\$2,643.46	INTEREST	
<b>2014</b>	8/29/2016	\$2,784	RETURN FILED AND TAX ASSESSED	<b>\$4,236.46</b>
		\$49	FAILURE TO PRE-PAY PENALTY	
		\$611.10	LATE FILING PENALTY	
		\$230.86	LATE PAYMENT PENALTY	
		\$154.29	INTEREST	
	11/14/2016	\$40	COLLECTION FEES AND EXPENSES	
	11/12/2018	\$448.14	LATE PAYMENT PENALTY	
		\$361.08	INTEREST	
<b>2015</b>	10/24/2016	\$6,110	RETURN FILED AND TAX ASSESSED	<b>\$10,685.67</b>
		\$74	FAILURE TO PRE-PAY PENALTY	
		\$824.85	LATE FILING PENALTY	
		\$213.85	LATE PAYMENT PENALTY	
		\$147.05	INTEREST	
	2/13/2017	\$634	ADDITIONAL TAX ASSESSED	
		\$40	COLLECTION FEES AND EXPENSES	
		\$95.10	LATE FILING PENALTY	
		\$91.65	LATE PAYMENT PENALTY	
		\$115.49	INTEREST	
	11/12/2018	\$1,351.97	LATE PAYMENT PENALTY	
		\$658.98	INTEREST	
	1/8/2018	\$5,044	RETURN FILED AND TAX ASSESSED	
		\$100	FAILURE TO PRE-PAY PENALTY	
		\$193.23	LATE PAYMENT PENALTY	
		\$127.97	INTEREST	
<b>2016</b>	3/12/2018	\$20	COLLECTION FEES AND EXPENSES	
<b>Total: \$140,978.21</b>				

\*As of May 13, 2019. Balance due reflects further interest and statutory additions as allowed by law less any credits, including for payments received.

7. For tax years 2005–2008, 2014, and 2016, the assessments reflected the taxes Defendants self-reported on the tax returns they filed. For tax year 2015, the IRS, in accordance

with the Internal Revenue laws, made an additional assessment due to an excess Advance Premium Tax Credit that Defendants had received.

8. A delegate of the Secretary of the Treasury properly gave notice to Defendants of the unpaid liabilities described in paragraph 6. Despite notice and demand for payment, Defendants have failed and refused to pay the entire amount of the liabilities described in paragraph 6.

9. Taking into account all payments, credits, and abatelements, as of May 13, 2019, Defendants owe \$140,978.21, plus further interest and statutory additions thereon as allowed by law, in income taxes, penalties, and interest for tax years 2005–2008 and 2014–2016.

#### COUNT II: FEDERAL INCOME TAXES (ROBERT POSEY)

10. Mr. Posey failed to file a federal income tax return for tax years 2009–2011 and 2013. Following an examination and in accordance with applicable deficiency procedures, a delegate of the Secretary of the Treasury assessed taxes, as well as applicable penalties and interest, on the dates and in the amounts shown below:

TAX YEAR	ASSESSMENT DATE	AMOUNT	TYPE OF ASSESSMENT	BALANCE DUE*
<b>2009</b>	6/30/2014	\$9,725	TAX ASSESSED BY EXAMINATION	<b>\$18,932.91</b>
		\$223.25	FAILURE TO PRE-PAY PENALTY	
		\$2,098.13	LATE FILING PENALTY	
		\$2,331.25	LATE PAYMENT PENALTY	
		\$1,647.47	INTEREST	
	8/31/2015	\$558.09	INTEREST	
	11/12/2018	\$2,216.41	INTEREST	
<b>2010</b>	6/30/2014	\$6,203	TAX ASSESSED BY EXAMINATION	<b>\$11,388.82</b>
		\$124.45	FAILURE TO PRE-PAY PENALTY	
		\$1,305.68	LATE FILING PENALTY	
		\$1,131.58	LATE PAYMENT PENALTY	
		\$726.18	INTEREST	
	8/31/2015	\$319.17	LATE PAYMENT PENALTY	
		\$324.70	INTEREST	
	11/12/2018	\$1,333.25	INTEREST	
<b>2011</b>	6/30/2014	\$6,257	TAX ASSESSED BY EXAMINATION	

		\$123.88	FAILURE TO PRE-PAY PENALTY	\$11,911.27
		\$1,407.83	LATE FILING PENALTY	
		\$844.69	LATE PAYMENT PENALTY	
		\$502.08	INTEREST	
	8/31/2015	\$719.56	LATE PAYMENT PENALTY	
		\$326.30	INTEREST	
	11/12/2018	\$1,394.40	INTEREST	
	2013	11/7/2016	\$4,421	
\$994.73			LATE FILING PENALTY	
\$685.25			LATE PAYMENT PENALTY	
\$452.43			INTEREST	
11/12/2018		\$420	LATE PAYMENT PENALTY	
		\$593.67	INTEREST	
Total: \$50,019.41				

\*As of May 13, 2019. Balance due reflects further interest and statutory additions as allowed by law less any credits, including for payments received.

11. A delegate of the Secretary of the Treasury properly gave notice to Mr. Posey of the unpaid liabilities described in paragraph 10. Despite notice and demand for payment, Mr. Posey has failed and refused to pay the entire amount of the liabilities described in paragraph 10.

12. Taking into account all payments, credits, and abatements, as of May 13, 2019, Mr. Posey owes \$50,019.41, plus further interest and statutory additions thereon as allowed by law, in income taxes, penalties, and interest for tax years 2009–2011 and 2013.

13. Mr. Posey filed a federal income tax return for tax year 2012 as a married taxpayer filing separately from his spouse. A delegate of the Secretary of the Treasury, in accordance with the Internal Revenue laws, assessed his self-reported tax, as well as applicable penalties and interest, on the dates and in the amounts shown below:

TAX YEAR	ASSESSMENT DATE	AMOUNT	TYPE OF ASSESSMENT	BALANCE DUE*
2012	9/26/2016	\$3,201	RETURN FILED AND TAX ASSESSED	\$5,867.03
		\$57	FAILURE TO PRE-PAY PENALTY	
		\$720.22	LATE FILING PENALTY	
		\$672.21	LATE PAYMENT PENALTY	
		\$436.92	INTEREST	
	11/12/2018	\$128.03	LATE PAYMENT PENALTY	
		\$486.38	INTEREST	

\*As of May 13, 2019. Balance due reflects further interest and statutory additions as allowed by law less any credits, including for payments received.

14. A delegate of the Secretary of the Treasury properly gave notice to Mr. Posey of the unpaid liabilities described in paragraph 13. Despite notice and demand for payment, Mr. Posey has failed and refused to pay the entire amount of the liabilities described in paragraph 13.

15. Taking into account all payments, credits, and abatements, as of May 13, 2019, Mr. Posey owes \$5,867.03, plus further interest and statutory additions thereon as allowed by law, in income taxes, penalties, and interest for tax year 2012.

WHEREFORE, Plaintiff, the United States of America, prays for the following relief:

A. That, with respect to Count I, the Court enter judgment in favor of the United States and against Defendants, jointly and severally, in the amount of \$140,978.21 as of May 13, 2019, plus interest and statutory additions thereafter as provided by law, for unpaid income tax liabilities for tax years 2005–2008 and 2014–2016;

B. That, with respect to Count II, the Court enter judgment in favor of the United States and against Defendant Robert Posey in the amount of \$55,886.44 as of May 13, 2019, plus interest and statutory additions thereafter as provided by law, for unpaid income tax liabilities for tax years 2009–2013; and

C. That the United States have such other and further relief as the Court may deem just and proper.

Date: November 14, 2019

Respectfully submitted,

RICHARD E. ZUCKERMAN  
Principal Deputy Assistant Attorney General

By:

/s/ Robert S. Silverblatt  
ROBERT S. SILVERBLATT  
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Trial Attorney, Tax Division  
U.S. Department of Justice  
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Robert.S.Silverblatt@usdoj.gov

*Of Counsel*

MARIA CHAPA LOPEZ  
United States Attorney

JS 44 (Rev. 08/16)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

United States

**DEFENDANTS**

Robert Posey and Rebecca Posey

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Brevard

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Robert Silverblatt, US DOJ Tax Division, PO Box 14198 Ben Franklin Station, Washington, DC 20044  
202-514-8682

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)Click here for [Nature of Suit Code Descriptions](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from Another District (specify)  
☐ 6 Multidistrict Litigation - Transfer  
☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
26 U.S.C. 7402Brief description of cause:  
Suit to reduce tax liabilities to judgment**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

 DEMAND \$  
 196,864.65

 CHECK YES only if demanded in complaint:  
 JURY DEMAND: ☐ Yes ☒ No
**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/14/19

SIGNATURE OF ATTORNEY OF RECORD

Robert Silverblatt

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG JUDGE



**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. **Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

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UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff(s)*

v.

\_\_\_\_\_  
*Defendant(s)*

)  
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)  
)  
)

Civil Action No. \_\_\_\_\_

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_ .

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*: \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

\_\_\_\_ District of \_\_\_\_\_

Defendant(s)

Signature of Clerk or Deputy Clerk

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_ .

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*: \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: